

*In the Matter of Scott DeLussa, Police Sergeant (PM2614E),
Bridgeton City*
DOP Docket No. 2004-393
(Merit System Board, decided January 12, 2005)

Scott DeLussa appeals the determination of the Division of Selection Services which found that his application for the promotional examination for Police Sergeant (PM2614E), Bridgeton City was late.

The subject examination had an application deadline date of June 23, 2003. Four candidates were found ineligible for filing late applications¹, which were postmarked after the application deadline date. In this regard, the appellant's application was postmarked June 25, 2003. Thirty applications were received on time and the resultant eligible list, which expires on December 31, 2006, contained the names of 21 eligibles. Four appointments have been made from the subject eligible list.

On appeal, the appellant explains that he had relied on a letter posted under glass at the Bridgeton Police Department and written by PBA Local No. 94 President, Gary Kehn. The appellant included a photograph of this letter with his appeal. The letter read as follows:

PBA Members

Any member who's eligible to take the upcoming Sergeant's test, see Barbara (Dagostino) at the Business Administrators Office. She has the applications which you will need to sign for. The tentative test date is September 23, 2003. Applications need to be filed by June 30, 2003.

G. Kehn

It is noted that the appointing authority provided all candidates with a copy of the application, and had the candidates sign that they received their applications. At the top of the form on which the appointing authority collected candidate signatures, there was an indication that the application deadline was June 23, 2003. Mr. DeLussa signed the form on June 11, 2003.

In a supplement to his appeal, Mr. DeLussa contended that Michael Gaimari was permitted to file a late application for the Police Lieutenant (PM2617E), Bridgeton City examination.

CONCLUSION

¹ Gary Kehn, Joshua Thompson and Norberto Torres, Jr., also filed applications after the closing date, but did not file appeals.

N.J.A.C. 4A:4-2.6(a)4 provides that applicants must file an application on or before the filing date. In the present matter, the appellant submits a photograph of a letter written by a union representative which indicates that applications for the subject title were due by June 30, 2003. As such, the appellant incorrectly relied on this information although the announcement clearly indicates that the application deadline date was June 23, 2003 and that applications must be postmarked by the application deadline. Accordingly, it is clear that the appellant was aware of the June 23, 2003 deadline.

As to the appellant's claim that Michael Gaimari was permitted to file a late application, a review of the record indicates that the appointing authority admitted that it failed to provide Gaimari with an application prior to the closing date. The appointing authority requested that, due to its error, a late application be accepted. The appellant is not similarly situated in that the record indicates that the appellant received a copy of the application on June 11, 2003, prior to the application filing deadline, and was advised of the correct filing period by the appointing authority. Accordingly, a thorough review of the record finds that the decision of the Division of Selection Services that the appellant's application was filed late was proper and the appellant has not provided any basis to disturb that decision.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.